



UNITED STATES PATENT AND TRADEMARK OFFICE

44

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,302	09/30/2003	Kenneth John Giewont	FIS920030204	4100

7590 08/14/2006
Frederick W. Gibb, III
McGinn & Gibb, PLLC
Suite 304
2568-A Riva Road
Annapolis, MD 21401

EXAMINER

KASTLER, SCOTT R

ART UNIT	PAPER NUMBER
----------	--------------

1742

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,302

Applicant(s)

GIEWONT ET AL.

Examiner

Scott Kastler

Art Unit

1742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8,10,11,13,14 and 22-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8,10,11,13,14 and 22-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10, 11, 13, 14 and 21-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Cantell et al. Cantell et al teaches a system (50) which can be employed for the forming of a silicide on a silicon material including a plurality of vacuum chambers (10, 30 for example) with a vacuum transfer means between chambers (see col. 4 lines 48-55 for example), a heater chuck (16, 14) for holding a substrate to be treated where the chuck is heated resistively, and where the separate vacuum chambers contain metal formation tools (sputtering in chamber 30 for example), annealing (which requires a heating tool) in a separate chamber of the device (50) with a second heating tool (see col. 5 lines 58-65 for example), and an etching or cleaning device in another vacuum chamber (10) thereby showing all aspects of the above claims since the system of Cantell et al could perform the recited functions of the instantly claimed apparatus (treatment of specific materials at specific temperatures) and it has been well settled that where a prior art apparatus can perform the functions of a claimed apparatus, the manner or method of use of an apparatus cannot be relied upon to fairly further limit claims to the apparatus itself. See MPEP 2114.

Claims 1, 3-8 and 13, 14 and 21-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirose et al. Hirose et al teaches a system (figure 1) which could be employed for

Art Unit: 1742

the forming of a silicide on a silicon material including a plurality of vacuum chambers (2 and 4) with a vacuum transfer means between chambers (5), where the separate vacuum chambers contain metal formation tools (3), and a heating tool (6) in separate chambers of the device thereby showing all aspects of the above claims since the system of Hirose et al could perform the recited functions of the instantly claimed apparatus (treatment of specific materials at specific temperatures) and it has been well settled that where a prior art apparatus can perform the functions of a claimed apparatus, the manner or method of use of an apparatus cannot be relied upon to fairly further limit claims to the apparatus itself. See MPEP 2114.

Response to Arguments

Applicant's arguments filed on 6/28/2006 have been fully considered but they are not persuasive.

Applicant's argument that Cantell et al does not include a heated chuck is not persuasive because as stated in Cantell et al, pedestal 16, 14 is connected to an RF generator (20,18) which, can serve to heat the chuck. Further, since as argued by applicant, the chamber 30 is heated, then the chuck (34, 36) within the chamber would be heated, meeting the requirement of a heated chuck, since this term is not the same as a requirement that the chuck be connected to a heating means or device for heating the chuck directly.

Applicant's argument that Hirose et al does not teach a heated chuck is also not persuasive, at least because as stated with respect to Cantell et al above, since the chamber of Hirose et al is resistively heated, then the chuck within would also be heated, thereby meeting the

Art Unit: 1742

broad requirement of a heating tool comprising a heated chuck, since no requirement is made in the claims that the chuck be directly connected to a heating means for directly heating the chuck.

Finally, applicant's argument that neither of Hirose et al or Cantell et al include a third vacuum chamber outside of the first and second vacuum chamber is not persuasive because both of Hirose et al (5) and Cantell (see col. 4 lines 48-55 for example), teach a transfer means between (outside of) the two primary vacuum chambers in which the vacuum is maintained, thereby meeting the requirement of a third vacuum chamber between and outside of the first and second vacuum chambers.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

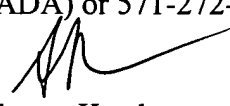
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 1742

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Scott Kastler
Primary Examiner
Art Unit 1742

sk